

**From:** [Opalski, Dan](#)  
**To:** [Merz, Martin](#)  
**Subject:** FW: Aquaculture permit question  
**Date:** Friday, May 13, 2022 1:52:43 PM  
**Attachments:** [image001.png](#)

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**From:** Opalski, Dan  
**Sent:** Tuesday, March 8, 2022 12:34 PM  
**To:** Mary Anne Nelson <[mary.anne.nelson@deq.idaho.gov](mailto:mary.anne.nelson@deq.idaho.gov)>; Kowalski, Edward <[Kowalski.Edward@epa.gov](mailto:Kowalski.Edward@epa.gov)>  
**Cc:** Martinson, Mathew <[Martinson.Mathew@epa.gov](mailto:Martinson.Mathew@epa.gov)>; Kenknight, Jeff <[Kenknight.Jeff@epa.gov](mailto:Kenknight.Jeff@epa.gov)>  
**Subject:** RE: Aquaculture permit question

Thanks, Mary Anne, and sorry for the circumstances. I will look into this.

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**From:** Mary Anne Nelson <[mary.anne.nelson@deq.idaho.gov](mailto:mary.anne.nelson@deq.idaho.gov)>  
**Sent:** Tuesday, March 8, 2022 12:22 PM  
**To:** Opalski, Dan <[Opalski.Dan@epa.gov](mailto:Opalski.Dan@epa.gov)>; Kowalski, Edward <[Kowalski.Edward@epa.gov](mailto:Kowalski.Edward@epa.gov)>  
**Cc:** Martinson, Mathew <[martinson.mathew@epa.gov](mailto:martinson.mathew@epa.gov)>; Kenknight, Jeff <[Kenknight.Jeff@epa.gov](mailto:Kenknight.Jeff@epa.gov)>  
**Subject:** Aquaculture permit question

Good afternoon,

I'm hoping you can help me with a situation we've run into regarding an aquaculture facility here. Staff here at DEQ have reached out to R10 staff, but we seem to be having trouble landing on the appropriate path forward. This concerns the aquaculture facility First Ascent Fish Farms (IDG130116).

This facility had coverage under the 2007 aquaculture general permit. According to DEQ's records an NOI was submitted in Jan 2012. However, it appears that the NOI was either lost in the mail, or not logged by EPA in 2012, as the permit was allowed to expire when the 2007 general permit expired and was administratively continued. I've attached a copy of the NOI we have in our records with the date stamp Jan 11, 2012.

The facility was contacted in 2013 with a question about the NOI and a copy was faxed to EPA in Aug 2013 by the owner/operator of the facility. This does not seem to have resulted in a change in the permit status however.

In 2014, EPA requested DEQ inspect the facility as per the terms of the PPA. During that inspection, our inspector reviewed the NOI that was in our files and concluded in the inspection report that the facility had submitted a timely NOI. That report was submitted to EPA R10 in Nov 2014, and no further action was taken to either inform the facility that they did not have coverage under the general permit or were in violation of the permit.

When this aquaculture general permit was transferred to DEQ in 2020, the facility was not included in the facilities having coverage under the general permit. We have requested a search of EPA's archived records for the NOI, but there doesn't appear to be one. Therefore, DEQ's presumption is that EPA deems this facility to not be covered under the general permit. In email correspondence from EPA R10 staff, there seems to be some general agreement that finding the NOI in DEQ's records should have continued coverage, however, that change was not done prior to transferring the general permit.

In light of the fact that there were at least two occasions prior to the transfer of delegated authority where EPA had opportunity to inform either DEQ or the facility that there did not appear to be continuation of coverage, where we could have provided the copy of record we had, I'm asking EPA provide a written explanation of their conclusions regarding whether or not this facility has permit coverage under the administratively continued permit. I have also asked the Idaho Attorney General's office to review the situation.

If the conclusion is that the facility has retained coverage, I also ask that ICIS be updated appropriately as it seems we are unable to do so on our side.

Thank you.

A handwritten signature in blue ink that reads "Mary Anne Nelson".

**Mary Anne Nelson, PhD | Administrator**

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